



Docket No.: 243148001US3  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Atemboski et al.

Application No.: 10/616,412

Confirmation No.: 9294

Filed: July 8, 2003

Art Unit: 3749

For: BURNER ASSEMBLY FOR A GAS-  
BURNING FIREPLACE

Examiner: J. C. Yeung

**INFORMATION DISCLOSURE STATEMENT (IDS)**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the references listed on the attached PTO/SB/08. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

Applicants hereby inform the Commissioner of two pending lawsuits related to the above-identified application: 1) *Travis Industries, Inc. v. Hearth & Home Technologies, Inc. and HON Industries, Inc.*, USDC Western District of Washington, Civil Case No. C03-2526P; and 2) *Hearth & Home Technologies, Inc. and HON Industries, Inc. v. Travis Industries, Inc.*, USDC, District of Minnesota, Civil Case No. 02-CV-4191 JRT/FLN.

This Information Disclosure Statement is filed more than three months after the U.S. filing date, OR more than three months after the date of entry of the national stage of a

Application No.: 10/616,412

Docket No.: 243148001US3

PCT application, AND after the mailing date of the first Office Action on the merits, whichever occurs first, but before the mailing date of a Final Office Action or Notice of Allowance (37 CFR 1.97(c)).

Copies of the foreign and non-patent literature document references on the PTO/SB/08 are provided.

Our check in the amount of \$180.00 covering the fee set forth in 37 CFR 1.17(p) is enclosed. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0665, under Order No. 243148001US3. A duplicate copy of this paper is enclosed.

Dated: January 25, 2005

Respectfully submitted,

By 

Robert G. Woolston

Registration No.: 37,263

PERKINS COIE LLP

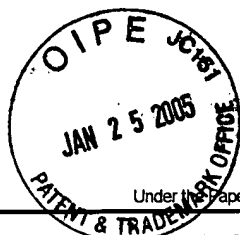
P.O. Box 1247

Seattle, Washington 98111-1247

(206) 359-8000

(206) 359-7198 (Fax)

Attorneys for Applicant



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

PTO/SB/08a/b (08-03)  
Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Substitute for form 1449A/B/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/616,412-Conf. #9294
				Filing Date	July 8, 2003
				First Named Inventor	Alan R. Atemboski
				Art Unit	3749
				Examiner Name	J. C. Yeung
				Attorney Docket Number	243148001US3
Sheet	1	of	4		

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
		US-6,443,726	10-18-2001	Alan Atemboski	
		US-6,260,548	07-17-2001	PHILIP WADE	
		US-6,244,263	06-12-2001	ERICH SCHLOSSER	
		US-6,036,474	03-14-2000	DUNG (DAVID) DIEP	
		US-5,941,237	08-24-1999	RONALD J. SHIMEK	
		US-5,890,485	04-06-1999	RONALD J. SHIMEK	
		US-5,671,727	09-30-1997	DAVID G. SQUIRES	
		US-5,655,513	08-12-1997	OLIVER J. WHITFIELD	
		US-5,429,495	07-04-1995	RONALD J. SHIMEK	
		US-5,341,794	08-30-1994	DANIEL S. HENRY	
		US-5,328,356	07-12-1994	ERIC HAWKINSON	
		US-5,320,520	06-14-1994	JAMES T. BARTH	
		US-5,318,438	06-07-1994	TATSUYA SUGAHARA	
		US-5,263,852	11-23-1993	ROBERT F. BECK	
		US-5,113,843	05-19-1992	DANIEL S. HENRY	
		US-5,092,313	03-03-1992	RICHARD S. BLACKBURN	
		US-5,081,981	01-21-1992	THOMAS J. BEAL	
		US-5,000,162	03-19-1991	RONALD J. SHIMEK	
		US-4,971,031	11-20-1990	STEPHEN F. RICHARDSON	
		US-4,971,030	11-20-1990	IAN THOW	
		US-4,951,650	08-28-1990	MICHAEL BOYES	
		US-4,940,407	07-10-1990	THOMAS R. REHBERG	
		US-4,890,601	01-02-1990	BARRY C. POTTER	
		US-4,886,445	12-12-1989	STEPHEN F. RICHARDSON	
		US-4,883,043	11-28-1989	IAN THOW	
		US-4,875,464	10-24-1989	RONALD J. SHIMEK	
		US-4,838,241	06-13-1989	HEINZ H. RIEGER	
		US-4,838,240	06-13-1989	HEINZ H. RIEGER	
		US-4,828,485	05-09-1989	VINCENT P. JANKOWSKI	
		US-4,766,876	08-30-1988	DANIEL S. HENRY	
		US-4,705,021	11-10-1987	STANLEY H. BEACH	
		US-4,676,221	06-30-1987	WILLIAM R. BAYNES	
		US-4,672,946	06-16-1987	RICHARD D. CRAVER	
		US-4,643,165	2/17/1987	CHAMBERLAIN	
		US-4,611,572	09-16-1986	DONALD S. MARTENSON	
		US-4,602,609	07-29-1986	PETER WRIGHT	
		US-4,485,972	12-04-1984	ELMER C. FREBER	
		US-4,305,372	12-15-1981	LINUS KWANG-RIUL HAHN	
		US-4,194,489	03-25-1980	Swain	
		US-4,141,336	02-27-1979	Fitch	
		US-4,061,133	12-06-1977	Swain	

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

Substitute for form 1449A/B/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/616,412-Conf. #9294
				Filing Date	July 8, 2003
				First Named Inventor	Alan R. Atemboski
				Art Unit	3749
				Examiner Name	J. C. Yeung
Sheet	2	of	4	Attorney Docket Number	243148001US3

		US-3,993,430	11-23-1976	Forker	
		US-3,638,635	02/1972	DRENNAN	
		US-3,042,109	07/1962	Peterson	
		US-2,671,440	03-09-1954	R.R. Dupler	
		US-1,286,108	11-26-1918	V. I. Richards	
		US-1,216,848	02-20-1917	G. F. Schmidt	
		US-1,156,735	10-12-1915	W. A. Wilson	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)	MM-DD-YYYY			
		GB-2,068,106	08-05-1981	VALOR NEWHOME LIMITED, et al.		
		EP-0,194,157	09-10-1986	MORGAN REFRACTORIES LIMITED		
		GB-429,115	05-24-1935	JOHN EDWARD THORNTON		
		GB-2,179,438	03-04-1987	Flamelog and Coal Fires Limited		
		FR-002629178A1	09-29-1989	MULLER CIE		
		GB-2,198,836	06-22-1988	Grate Glow Fires Limited		

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		Johnson Gas Appliance Company, Mendota Division, company literature regarding "Heat Producing Gas Fireplace Insert, Installation & Operating Instructions" (undated, 24 pages)	
		Johnson Gas Appliance Company, Mendota Division, "Mendota Hearth" product brochure regarding Mendota Hearth inserts and fireplaces (undated)	
		Travis's Responsive Claim Construction Brief, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated August 25, 2004	
		Plaintiff Travis Industries, Inc.'s Answers to Defendants' First Set of Interrogatories (Nos. 1-16), Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated January 12, 2004	
		Hearth & Home's and Hon's Preliminary Invalidity Contentions Regarding U.S. Patent No. 6,443,726, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated February 17, 2004	
		Hearth & Home's and Hon's Preliminary Invalidity Contentions, Travis Industries, Inc. v. Hearth	
Examiner Signature			Date Considered

Substitute for form 1449A/B/PTO				<b>Complete if Known</b>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use as many sheets as necessary)				Application Number	10/616,412-Conf. #9294
				Filing Date	July 8, 2003
				First Named Inventor	Alan R. Atemboski
				Art Unit	3749
				Examiner Name	J. C. Yeung
Sheet	3	of	4	Attorney Docket Number	243148001US3

		& Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated January 20, 2004	
		[Hearth & Home's and Hon's] First Amended Answer and Counterclaims, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated February 19, 2004	
		Hearth & Home's and Hon's Amended Preliminary and First Supplemental Invalidity Contentions Regarding U.S. Patent No. 6,602,068, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated June 14, 2004	
		Hearth & Home's and Hon's Amended Preliminary and First Supplemental Invalidity Contentions Regarding U.S. Patent No. 6,443,726, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated June 14, 2004	
		Joint Claim Chart, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated July 26, 2004	
		Travis's Opening Claim Construction Brief, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated August 12, 2004	
		Report of Charles H. Gibbons, Jr. as to Claim Construction Issues, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated February 16, 2004	
		Hearth & Home's and Hon's Opening Markman Brief, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated August 12, 2004	
		Praeipce Replacing Page 8 of Travi's Opening Claim Construction Brief, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated August 13, 2004	
		Praeipce Replacing Pages 14 and 18 of Hearth & Home's and Hon's Opening Markman Brief, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated August 16, 2004	
		Hearth & Home's and Hon's Response Markman Brief, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated August 25, 2004	
		Transcript of Proceedings Before the Honorable Marsha J. Pechman United States District Judge, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated October 1, 2004	
		Order on Claim Constructions, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated October 18, 2004	
		Hearth & Home's and Hon's Answers to Plaintiff's Second Set of Interrogatories (Nos. 7-12), Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated December 3, 2004	
		GIBBONS, Charles H.; Project: Invalidity Report on '068 & '726 Patent Infringement Case Hearth & Home Technologies, Inc. vs. Travis Industries, Inc., December 10, 2004	
		Hearth & Home's and Hon's Motion for Summary Judgment of Invalidity of U.S. Patent Nos. 6,602,068 and 6,443,726 for Failure to Comply with 35 U.S.C. § 112, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No.	

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

Substitute for form 1449A/B/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/616,412-Conf. #9294
				Filing Date	July 8, 2003
				First Named Inventor	Alan R. Atemboski
				Art Unit	3749
				Examiner Name	J. C. Yeung
Sheet	4	of	4	Attorney Docket Number	243148001US3

		C03-2526P, dated January 14, 2005	
		Defendants' Motion for Partial Summary Judgment of Invalidity Based Upon Anticipation, Travis Industries, Inc. v. Hearth & Home Technologies, Inc., et al., USDC Western District of Washington Case No. C03-2526P, dated January 14, 2005	
		Hearth & Home's 7000 Burner Assembly (Exhibit A) (6 pages)	
		Hearth & Home's 36T Burner Assembly (Exhibit B); (4 pages)	
		Hearth & Home's 7000 Burner Assembly, Modified Burner Body (Exhibit L) (2 pages)	
		Hearth & Home's CFL Burner Assembly (Exhibit M) (1 page)	
		Hearth & Home's PTO-DIY Burner Assembly (Exhibit N) (5 pages)	
		Hearth & Home's CFX-DA Burner Assembly (Exhibit O) (1 page)	
		Hearth & Home's CFX-ZC Burner Assembly (Exhibit P) (2 pages)	
		Hearth & Home's PTO-CF Burner Assembly (Exhibit Q) (2 pages)	
		Disclosure of Expert Testimony of Dr. L. Douglas Smoot Pursuant to Fed. R. Civ. P. 26(A)(2), dated December 10, 2004	
		7000 TR Installers Guide: HEAT-N-GO, a division of Hearth Technologies Inc., Savage, MN; "Heat-N-Glo Fireplace, Installers Guide", Models: 7000 TR, copyright 1998 (54 pages from Charles H. Gibbons' December 10, 2004 Invalidity Report)	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--